

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

PERFORMANCE PRICING, INC.,

Plaintiff,

v.

GOOGLE INC., AOL LLC, MICROSOFT  
CORPORATION, YAHOO! INC.,  
IAC SEARCH & MEDIA, INC., and  
A9.COM, INC.,

Defendants.

Case No. 2:07-cv-432 (LED)

**JURY TRIAL DEMANDED**

**PLAINTIFF AND COUNTERDEFENDANT PERFORMANCE PRICING, INC.'S**

**REPLY TO COUNTERCLAIMS OF DEFENDANT AOL, LLC**

Plaintiff Performance Pricing, Inc. ("Performance Pricing") hereby answers the counterclaims of Defendant AOL, LLC ("AOL"). The paragraphs in this reply are numbered to correspond with the paragraph numbers in AOL's counterclaims. All of the allegations of the counterclaims not specifically admitted herein are specifically denied.

**PARTIES**

1. Performance Pricing admits the allegations contained in paragraph 1 of AOL's counterclaims.
2. Performance Pricing admits the allegations contained in paragraph 2 of AOL's counterclaims.

**JURISDICTION AND VENUE**

3. Performance Pricing admits the allegations contained in paragraph 3 of AOL's counterclaims.

4. Performance Pricing admits the allegations contained in paragraph 4 of AOL's counterclaims.

COUNTERCLAIMS

5. Performance Pricing denies that the '253 patent was issued improperly. Performance Pricing admits the remaining allegations in paragraph 5 of AOL's counterclaims.

6. Performance Pricing admits the allegations contained in paragraph 6 of AOL's counterclaims.

7. Performance Pricing admits the allegations contained in paragraph 7 of AOL's counterclaims.

FIRST CAUSE OF ACTION: Declaratory Judgment of Non-Infringement

8. Performance Pricing incorporates by reference its responses to the facts and allegations in its complaint and paragraphs 1 through 7 of its reply to AOL's counterclaims as if fully set forth herein. With respect to AOL's incorporation of paragraphs 1-16 of the answer, paragraphs 1-16 of AOL's answer do not appear to contain any allegations, so no response appears necessary. To the extent that paragraphs 1-16 of AOL's answer contain any allegations, Performance Pricing denies those allegations. Performance Pricing denies the allegations contained in AOL's defenses.

9. Performance Pricing denies the allegations contained in paragraph 9 of AOL's counterclaims.

SECOND CAUSE OF ACTION: Declaratory Judgment of Invalidity and/or Unenforceability

10. Performance Pricing incorporates by reference its responses to the facts and allegations in its complaint and paragraphs 1 through 9 of its reply to AOL's counterclaims as if fully set forth herein. With respect to AOL's incorporation of paragraphs 1-16 of the answer,

paragraphs 1-16 of AOL's answer do not appear to contain any allegations, so no response appears necessary. To the extent that paragraphs 1-16 of AOL's answer contain any allegations, Performance Pricing denies those allegations. Performance Pricing denies the allegations contained in AOL's defenses.

11. Performance Pricing denies the allegations contained in paragraph 11 of AOL's counterclaims.

EXCEPTIONAL CASE

12. Performance Pricing denies the allegations contained in paragraph 12 of AOL's counterclaims.

RELIEF REQUESTED

Plaintiff and Counterdefendant Performance Pricing denies that AOL is entitled to the relief it seeks or any relief for the allegations made in its Answer or Counterclaims. Plaintiff and Counterdefendant Performance Pricing requests that judgment be entered in its favor on all issues and it be awarded the appropriate damages, exceptional damages, costs, and attorneys' fees.

**Demand for Jury Trial**

Performance Pricing demands trial by jury of all issues.

Dated: December 26, 2007

Respectfully submitted,

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